

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALLEN APPLESTEIN, et al., :
Plaintiffs, : 02-CV-04124 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
APPLESTEIN :
Plaintiff, : 02-CV-1773 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, et al. :
Defendants. :
----- x
FRANCHESCHI, et al. :
Plaintiffs, : 03-CV-04693 (TPG)
v. :
REP. OF ARGENTINA, :
Defendant. :
----- x
(captions continued on following pages)

ORDER

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MAZZINI, et al., :
Plaintiffs, : 03-CV-08120 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- :
MORATA, et al., :
Plaintiffs, : 04-CV-03314 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
MOLDES, et al. :
Plaintiffs, : 04-CV-06137 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, et al. :
Defendants. :
----- x
MARIA FAUSTA CILLI, et al., :
Plaintiffs, : 04-CV-06594 (TPG)
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
ROSA, et al., :
Plaintiffs, : 04-CV-07504 (TPG)

v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
CONSOLINI, et al., :
: Plaintiffs, : 05-CV-0177 (TPG)
: :
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
FERRI, et al., :
: Plaintiffs, : 05-CV-02943 (TPG)
: :
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
RIGUEIRO, et al., :
: Plaintiffs, : 05-CV-03089 (TPG)
: :
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x
BETTONI, et al., :
: Plaintiffs, : 05-CV-04299 (TPG)
: :
v. :
THE REPUBLIC OF ARGENTINA, :
Defendant. :
----- x

FEDECOSTANTE, et al.,	:	
	Plaintiffs,	05-CV-04466 (TPG)
	v.	
THE REPUBLIC OF ARGENTINA,	:	
	Defendant.	
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LISI, et al.,	:	x
	Plaintiffs,	05-CV-06002 (TPG)
	v.	
THE REPUBLIC OF ARGENTINA,	:	
	Defendant.	
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ROSSINI, et al.,	:	x
	Plaintiffs,	05-CV-06200 (TPG)
	v.	
THE REPUBLIC OF ARGENTINA, et al.	:	
	Defendants.	
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KLEIN, et al.,	:	x
	Plaintiffs,	05-CV-06599 (TPG)
	v.	
THE REPUBLIC OF ARGENTINA,	:	
	Defendant.	
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LOVATI,	:	x
	Plaintiff,	05-CV-08195 (TPG)
	v.	

THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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BOTTI, et al.,	:	
	:	
Plaintiffs,	:	05-CV-08687 (TPG)
	:	
v.	:	
THE REPUBLIC OF ARGENTINA, et al.	:	
	:	
Defendants.	:	
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PASQUALI,	:	
	:	
Plaintiff,	:	05-CV-10636 (TPG)
	:	
v.	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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BEYER, et al.,	:	
	:	
Plaintiffs,	:	07-CV-00098 (TPG)
	:	
v.	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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BORGRA, et al.,	:	
	:	
Plaintiffs,	:	07-CV-05807 (TPG)
	:	
v.	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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DUSSAULT,	:	
	:	

Plaintiff,	:	06-CV-13085 (TPG)
	:	
v.	:	
	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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The Bank of New York Mellon serves as the indenture trustee for certain bonds issued by the Republic. In a related case, this court enjoined the Republic from making payments on the bonds in question without meeting certain requirements. However, on June 26, 2014, the Republic made a payment of \$539 million to BNY. Presumably, the purpose of this was to have these funds transferred to bondholders. The payment of the \$539 million was improper because the requirements for passing the payment on to bondholders were not met. BNY held the \$539 million and did not pass it on. This was the proper thing for BNY to do. Subsequently, the court ordered BNY to retain the funds in its accounts at Banco Central de la República Argentina pending further orders.

Plaintiffs have filed the instant motions seeking the turnover of a substantial part of the \$539 million to them.

Plaintiffs' motions are denied because the funds are located outside the United States in BNY's accounts at BCRA. Federal Rule of Civil Procedure 69 and New York Civil Practice Law and Rules § 5225(b) allow turnover in certain circumstances where, *inter alia*, a movant shows that the judgment debtor has an interest in the property. However, the Foreign Sovereign Immunities Act, which governs the arrest, execution, or attachment of the property of a foreign sovereign, does not authorize attachment or execution of sovereign property located *outside* the United States. See 28 U.S.C. §§ 1609–11. Thus, even if plaintiffs show that the Republic has an

interest in the funds, which the court does not reach, turnover would not be authorized by the FSIA. In dealing with what can be subjected to turnover, the FSIA simply does not mention property located outside the United States.

Plaintiffs' motions are denied.

SO ORDERED

Dated: New York, New York
October 27, 2014



Thomas P. Griesa
United States District Judge